

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs. No. 22-cv-00830-JB/JFR

WILLIAM C. GARDNER, DDS,

Defendant.

DEPOSITION OF WILLIAM GARDNER

Volume 1

October 13, 2023

9:19 a.m.

201 3rd Street, Northwest, Suite 900

Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: MR. BENJAMIN G. MINEGAR
Attorney For Plaintiff

REPORTED BY: Peggy Jo Gonzales, RMR, CCR #145
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street, Northwest, Suite 1630
Albuquerque, New Mexico 87102

(8692N-PJ)

<p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2 For the Plaintiff:</p> <p>3 MR. BENJAMIN G. MINEGAR</p> <p>4 US ATTORNEY</p> <p>5 Assistant U.S. Attorney</p> <p>6 District of New Mexico</p> <p>7 201 Third Street, Northwest, Suite 900</p> <p>8 Albuquerque, New Mexico 87102</p> <p>9 benjamin.minegar@usdoj.gov 505.224.1469</p> <p>10</p> <p>11 For the Defendant:</p> <p>12 MR. GARY W. BOYLE</p> <p>13 BOYLE LAW OFFICE</p> <p>14 15 Spirit Court</p> <p>15 Santa Fe, New Mexico 87505</p> <p>16 gary.boyle.boylelawoffice@gmail.com</p> <p>17 505. 989.5057</p> <p>18</p> <p>19 Also Present:</p> <p>20 Ms. Julie Chappell, CFE</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: center;">PAGE</p> <p>EXAMINATION OF WILLIAM GARDNER</p> <p>By Mr. Minegar 4</p> <p>CERTIFICATE OF COMPLETION OF DEPOSITION 50</p> <p>WITNESS SIGNATURE/CORRECTION PAGE 52</p>	<p style="text-align: right;">4</p> <p>1 WILLIAM GARDNER,</p> <p>2 after having been first duly sworn under oath,</p> <p>3 was questioned and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. MINEGAR:</p> <p>6 Q. Good morning, Dr. Gardner. I'm Assistant</p> <p>7 U.S. Attorney, Ben Minegar; I represent the United</p> <p>8 States in this case.</p> <p>9 Can you please state and spell your name</p> <p>10 for the record.</p> <p>11 A. William Gardner, W-I-L-L-I-A-M, Gardner</p> <p>12 G-A-R-D-N-E-R.</p> <p>13 Q. And have you ever had your deposition taken</p> <p>14 before?</p> <p>15 A. Yes.</p> <p>16 Q. How many times?</p> <p>17 A. I don't know.</p> <p>18 Q. Can you estimate?</p> <p>19 A. No.</p> <p>20 Q. No estimate?</p> <p>21 A. No estimate.</p> <p>22 Q. Okay.</p> <p>23 What types of cases were they?</p> <p>24 A. I don't remember.</p> <p>25 Q. Have you ever testified in court?</p>
<p style="text-align: right;">3</p> <p>1 EXHIBITS MARKED OR FORMALLY IDENTIFIED</p> <p>2 1 Defendant's Responses to Plaintiff's First 14</p> <p>3 Requests for Admission Interrogatories,</p> <p>4 and Requests for Production to Defendant</p> <p>5 2 License, NM Board of Dental Health Care 21</p> <p>6 3 Practitioner's Controlled Substance 28</p> <p>7 Registration Renewal Application</p> <p>8</p> <p>9 4 Controlled Substance Registration 31</p> <p>10 Certificate</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">REPORTER'S NOTE</p> <p>Quotation marks are used for clarity and do not</p> <p>necessarily reflect a direct quote.</p>	<p style="text-align: right;">5</p> <p>1 A. Yes.</p> <p>2 Q. How many times have you testified in court?</p> <p>3 A. Testified on my own behalf, I guess. I</p> <p>4 don't know. Can't recall.</p> <p>5 Q. Five?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay.</p> <p>8 Any information about what kinds of cases</p> <p>9 those were?</p> <p>10 A. No.</p> <p>11 Q. Okay, so just a few ground rules. It</p> <p>12 sounds like you've been deposed before. But this is</p> <p>13 a question and answer session; it's a little bit more</p> <p>14 formal. I'll be asking you questions and your</p> <p>15 obligation is to provide complete and truthful</p> <p>16 answers under oath. If you don't understand the</p> <p>17 question, can you please let me know.</p> <p>18 A. Yes.</p> <p>19 Q. And if you answer, we'll assume that you</p> <p>20 understood the question. Is that -- is that fair?</p> <p>21 A. Um-hum. Yes.</p> <p>22 Q. The court reporter is typing everything we</p> <p>23 say, so please try to answer verbally with yes or no.</p> <p>24 An example of that, try to avoid things like "um-hum"</p> <p>25 or nodding your head yes or no, just so that the</p>

<p style="text-align: right;">6</p> <p>1 court reporter can -- can get everything on the</p> <p>2 transcript.</p> <p>3 And let's also work together to not talk</p> <p>4 over each other so that -- again, so that the court</p> <p>5 reporter can type everything down that we're getting</p> <p>6 at.</p> <p>7 If you need a break at any time, just let</p> <p>8 me know. The only limitation on that is if I've</p> <p>9 asked you a question, please answer that question</p> <p>10 first and then we can take a break. Do you</p> <p>11 understand?</p> <p>12 A. Yes.</p> <p>13 Q. And from time to time, or a lot in this</p> <p>14 case, your attorney might object. Unless your</p> <p>15 attorney specifically instructs you not to answer the</p> <p>16 question, you'll still be obligated to provide an</p> <p>17 answer. Does that make sense?</p> <p>18 A. Yes.</p> <p>19 Q. Have you taken any medications recently</p> <p>20 that would affect your ability to testify accurately</p> <p>21 or truthfully today?</p> <p>22 A. I've taken medications, but I don't know if</p> <p>23 that affects my accuracy.</p> <p>24 Q. You've taken medications recently?</p> <p>25 A. Um-hum.</p>	<p style="text-align: right;">8</p> <p>1 a discussion with counsel, we'll object on the basis</p> <p>2 of attorney-client privilege. If there's anything</p> <p>3 else you did, you can -- I think you can probably</p> <p>4 answer that.</p> <p>5 A. I didn't do anything.</p> <p>6 Q. (By Mr. Minegar) Did you meet with your</p> <p>7 lawyer?</p> <p>8 A. No, I have not.</p> <p>9 Q. Did you have any phone discussions with</p> <p>10 your attorney?</p> <p>11 A. Phone con- -- no, I didn't.</p> <p>12 Q. Did you review any documents?</p> <p>13 A. No.</p> <p>14 Q. Did you bring any documents with you today?</p> <p>15 A. No.</p> <p>16 Q. Okay, let's move on to some general</p> <p>17 background information. What is your date of birth?</p> <p>18 A. 12/9/69.</p> <p>19 Q. And how old does that make you?</p> <p>20 A. 53-ish.</p> <p>21 Q. And where were you born?</p> <p>22 A. I was born in Silver City, New Mexico.</p> <p>23 Q. And where is your current residence?</p> <p>24 A. Where? In Albuquerque.</p> <p>25 Q. Albuquerque.</p>
<p style="text-align: right;">7</p> <p>1 Q. How recently?</p> <p>2 A. This morning.</p> <p>3 Q. What kind of medications are they?</p> <p>4 A. They're for my back through the police</p> <p>5 brutality that I went through, so...</p> <p>6 Q. What? I'm sorry?</p> <p>7 A. My back. I don't know the name of it.</p> <p>8 It's called -- there's different variations of it,</p> <p>9 so... It's basically a pain medication and a muscle</p> <p>10 relaxer.</p> <p>11 Q. And those pain medications or muscle</p> <p>12 relaxers, will those affect your ability to testify</p> <p>13 truthfully today?</p> <p>14 A. I don't know if they will or not.</p> <p>15 Q. You don't know if they will or not?</p> <p>16 A. I don't.</p> <p>17 Q. So can you explain that? Are they -- are</p> <p>18 they affecting your cognitive state in any way?</p> <p>19 A. They could, I mean, because they're pain</p> <p>20 medication.</p> <p>21 Q. Okay, what did you do to prepare for your</p> <p>22 deposition today?</p> <p>23 THE WITNESS: Is this where I take the</p> <p>24 Fifth?</p> <p>25 MR. BOYLE: Well, to the extent it requests</p>	<p style="text-align: right;">9</p> <p>1 Do you have any family?</p> <p>2 A. Yes.</p> <p>3 Q. Significant other?</p> <p>4 A. Yes.</p> <p>5 Q. A wife?</p> <p>6 A. Um-hum.</p> <p>7 Q. And what's --</p> <p>8 A. Yes.</p> <p>9 Q. What's your wife's name?</p> <p>10 A. I'm not going to tell you my wife's name.</p> <p>11 Q. You have to tell me your wife's name.</p> <p>12 A. I won't. I won't have anything -- my wife</p> <p>13 involved in any of this.</p> <p>14 Q. She's not involved.</p> <p>15 A. Well, you're asking her name.</p> <p>16 MR. MINEGAR: Are you instructing him not</p> <p>17 to answer the question?</p> <p>18 MR. BOYLE: I don't think it's relevant or</p> <p>19 even close to being relevant. So if he's says he's</p> <p>20 not going to answer, that's what he's going to do.</p> <p>21 Q. Any children?</p> <p>22 A. Yes.</p> <p>23 Q. How many children do you have?</p> <p>24 A. Two.</p> <p>25 Q. And what's your educational background?</p>

<p style="text-align: right;">10</p> <p>1 A. I have a doctorate. I have a D.D.S.</p> <p>2 Q. Is your wife's name Katherine?</p> <p>3 A. I don't know.</p> <p>4 Q. You don't know your wife's name?</p> <p>5 A. That's right.</p> <p>6 Q. Okay.</p> <p>7 A. I'm not going to say my wife's name.</p> <p>8 Q. What -- where did you go to high school?</p> <p>9 A. I went to Silver High in Silver City.</p> <p>10 Q. In Silver City.</p> <p>11 And where did you go to college?</p> <p>12 A. University of New Mexico.</p> <p>13 Q. And you said you have a D.D.S.?</p> <p>14 A. Yes.</p> <p>15 Q. And that's a doctor of dental surgery?</p> <p>16 A. Um-hum.</p> <p>17 Q. And where did you get your D.D.S.?</p> <p>18 A. University of Colorado.</p> <p>19 Q. Any military service?</p> <p>20 A. No.</p> <p>21 Q. What -- what has been your employment</p> <p>22 history since you obtained your D.D.S.?</p> <p>23 A. My employment history has been</p> <p>24 self-employed.</p> <p>25 Q. Have you been convicted of any crimes?</p>	<p style="text-align: right;">12</p> <p>1 of years.</p> <p>2 Q. Okay, here in Albuquerque?</p> <p>3 A. Um-hum.</p> <p>4 Q. Okay.</p> <p>5 And then you started your own practice in</p> <p>6 1998?</p> <p>7 A. Yes.</p> <p>8 Q. What was the name of that practice?</p> <p>9 A. Who? What practice? What are you talking</p> <p>10 about?</p> <p>11 Q. Your practice here in Albuquerque.</p> <p>12 A. It's -- it's my name, and I've had some</p> <p>13 d/b/a's, also.</p> <p>14 Q. Is it William C. Gardner, D.D.S., PA --</p> <p>15 A. Um-hum.</p> <p>16 Q. -- that's the name of your practice?</p> <p>17 A. Trade -- and trademark.</p> <p>18 Q. Can you just describe generally for me your</p> <p>19 practice there.</p> <p>20 MR. BOYLE: You should take the Fifth.</p> <p>21 A. Fifth.</p> <p>22 Q. Do you own William C. Gardner D.D.S., PA?</p> <p>23 A. Fifth.</p> <p>24 Q. Is the address -- can you tell me the</p> <p>25 address of the practice?</p>
<p style="text-align: right;">11</p> <p>1 A. No.</p> <p>2 Q. Are you currently being prosecuted for any</p> <p>3 crimes?</p> <p>4 THE WITNESS: Take the Fifth, right?</p> <p>5 MR. BOYLE: You can answer yes to the</p> <p>6 fundamental question, are you being prosecuted?</p> <p>7 A. Yes.</p> <p>8 Q. (By Mr. Minegar) And without getting into</p> <p>9 any explicit details, what's the nature of that?</p> <p>10 MR. BOYLE: Take the Fifth.</p> <p>11 A. I take the Fifth.</p> <p>12 Q. Is it prosecution for practicing dentistry</p> <p>13 without a license?</p> <p>14 A. Take the Fifth.</p> <p>15 Q. Moving back to your practice, did you start</p> <p>16 your own practice here in Albuquerque at any point?</p> <p>17 A. Yes.</p> <p>18 Q. When?</p> <p>19 A. 1998-ish.</p> <p>20 Q. And so what -- what year did you get your</p> <p>21 D.D.S.?</p> <p>22 A. 1996.</p> <p>23 Q. 1996, okay.</p> <p>24 So what did you do from 1996 to 1998?</p> <p>25 A. I worked for another dentist for a couple</p>	<p style="text-align: right;">13</p> <p>1 A. You have it there.</p> <p>2 Q. I just wanted to -- rather than read it off</p> <p>3 to you, but I can do that. Is it 200 Carmel Avenue,</p> <p>4 Northeast, Suite 101, Albuquerque, New Mexico 87122?</p> <p>5 A. No.</p> <p>6 Q. Can you tell me what the address is?</p> <p>7 MR. BOYLE: You can answer.</p> <p>8 A. 8200 Carmel Avenue.</p> <p>9 Q. 8200?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. Got it.</p> <p>12 And is the phone number (505)828-2669?</p> <p>13 MR. BOYLE: You can answer.</p> <p>14 A. Yes.</p> <p>15 Q. And so you started this practice in 1998,</p> <p>16 you said?</p> <p>17 A. Right around there.</p> <p>18 Q. Okay.</p> <p>19 Is it still around, the professional</p> <p>20 association?</p> <p>21 MR. BOYLE: Do the Fifth.</p> <p>22 A. The Fifth.</p> <p>23 Q. Did you have employees in your practice?</p> <p>24 A. Did I have employees?</p> <p>25 MR. BOYLE: You can answer that one.</p>

<p style="text-align: right;">14</p> <p>1 A. Yup.</p> <p>2 Q. How many employees did you have?</p> <p>3 A. It ranged.</p> <p>4 Q. It was different from time to time?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 In 2020 to 2021, how many employees did you</p> <p>8 have?</p> <p>9 A. I don't recall.</p> <p>10 Q. Was it -- was it one?</p> <p>11 A. I'll take the Fifth.</p> <p>12 Q. Okay.</p> <p>13 (Exhibit 1 marked.)</p> <p>14 Q. (By Mr. Minegar) Okay, I'm going to show</p> <p>15 you a document. This is what we'll as mark as U.S.A.</p> <p>16 Exhibit 1. It is the July 17, 2023, answers to our</p> <p>17 written discovery in this case.</p> <p>18 Have you seen this document before?</p> <p>19 A. I don't -- maybe. It's been a while.</p> <p>20 Q. Is that a yes? You can take -- yeah, take</p> <p>21 as much time as you need to --</p> <p>22 A. No, I don't really recall this document.</p> <p>23 Q. You've never seen this document before?</p> <p>24 A. I don't think so.</p> <p>25 Q. Can you turn with me to page -- the last</p>	<p style="text-align: right;">16</p> <p>1 is, "Identify, by their full name, address, telephone</p> <p>2 number, and email address, all persons, excluding</p> <p>3 you, who worked at your dental practice in New Mexico</p> <p>4 between July 2020 and February 2021."</p> <p>5 And your response is "Defendant does not</p> <p>6 recall the identity of the persons that worked at his</p> <p>7 dental practice during the relevant period." Since</p> <p>8 the interrogatories were not verified, I just want to</p> <p>9 confirm that's what your answer is to that question,</p> <p>10 interrogatory 5.</p> <p>11 A. I did not answer that.</p> <p>12 Q. So your attorney wrote that without you</p> <p>13 approving it?</p> <p>14 A. I don't know. I don't know what my</p> <p>15 attorney did.</p> <p>16 Q. So read number 5 again. What's the answer</p> <p>17 to that question?</p> <p>18 A. I take the Fifth on the answer.</p> <p>19 MR. BOYLE: You can go ahead and answer</p> <p>20 that one.</p> <p>21 THE WITNESS: I can answer it?</p> <p>22 MR. BOYLE: Um-hum.</p> <p>23 A. Yes, I don't recall. That's the answer.</p> <p>24 Q. (By Mr. Minegar) Okay.</p> <p>25 What is New Mexico Center for Cosmetic &</p>
<p style="text-align: right;">15</p> <p>1 page. Is that your attorney there, Gary Boyle?</p> <p>2 A. Yeah.</p> <p>3 Q. Is that his signature?</p> <p>4 A. That's him. I don't know if that's his</p> <p>5 signature or not.</p> <p>6 Q. Did you review this document before it was</p> <p>7 submitted to the United States?</p> <p>8 A. I don't recall. A lot of it is just</p> <p>9 declining to answer, so... The Fifth Amendment.</p> <p>10 Q. And if you'd flip over to the very last</p> <p>11 page. There's a verification page. Do you see that?</p> <p>12 A. Yeah.</p> <p>13 Q. Yeah, flip it one more time. There you go.</p> <p>14 Why is the verification page blank?</p> <p>15 A. I don't know.</p> <p>16 Q. Did your --</p> <p>17 A. You tell me.</p> <p>18 Q. -- attorney -- I'm sorry?</p> <p>19 A. You tell me.</p> <p>20 Q. Did your attorney send this to you to sign</p> <p>21 before it was submitted in discovery in this case?</p> <p>22 A. I don't recall.</p> <p>23 Q. Okay.</p> <p>24 Look at interrogatory response number 5.</p> <p>25 It is on the third page. And it says -- the question</p>	<p style="text-align: right;">17</p> <p>1 Family Dentistry?</p> <p>2 A. It's a -- it's a trade name, I guess.</p> <p>3 Q. A trade name for what?</p> <p>4 A. For my office.</p> <p>5 Q. Is it different from William C. Gardner,</p> <p>6 D.D.S., PA?</p> <p>7 A. Yes.</p> <p>8 Q. How is it different?</p> <p>9 A. It's a different name, straight name.</p> <p>10 Q. And is the address 201 Wyoming Boulevard,</p> <p>11 Northeast, Albuquerque, New Mexico 87123?</p> <p>12 A. No.</p> <p>13 Q. What -- what was the address of that?</p> <p>14 A. I don't know the address of that. It's</p> <p>15 probably the same as my 8200, but...</p> <p>16 Q. And were you the owner of that facility, as</p> <p>17 well?</p> <p>18 A. Facility?</p> <p>19 Q. Were you the owner of that business?</p> <p>20 A. There's no facility. I am the owner of the</p> <p>21 name, yeah.</p> <p>22 Q. And what is the status of that entity now?</p> <p>23 MR. BOYLE: You can take the Fifth on that.</p> <p>24 A. Fifth.</p> <p>25 Q. And when did you start that entity?</p>

<p style="text-align: right;">18</p> <p>1 A. The Fifth.</p> <p>2 Q. Is it still around?</p> <p>3 A. The Fifth.</p> <p>4 Q. So you said it's a trade name. How is it</p> <p>5 different from your -- your other practice, William</p> <p>6 C. Gardner, D.D.S., PA? Why did you have two -- two</p> <p>7 different names?</p> <p>8 MR. BOYLE: You've got at least three</p> <p>9 questions there, but I think they're all subject to</p> <p>10 the Fifth.</p> <p>11 A. Okay, yes, the Fifth on all three</p> <p>12 questions.</p> <p>13 Q. Okay, I'd like to talk about your billing</p> <p>14 practices. Who billed for your services in your</p> <p>15 practice?</p> <p>16 A. Fifth.</p> <p>17 Q. Was it a function that was managed within</p> <p>18 your practice?</p> <p>19 A. Fifth.</p> <p>20 Q. Was it outsourced?</p> <p>21 A. Fifth.</p> <p>22 Q. Do you know if it was an individual</p> <p>23 handling billing --</p> <p>24 A. Fifth.</p> <p>25 Q. -- through your office?</p>	<p style="text-align: right;">20</p> <p>1 dental license. At any point since 1996 -- you said</p> <p>2 is when you said you got your D.D.S.? 1996?</p> <p>3 A. Yes.</p> <p>4 Q. At any point since then, did you have a</p> <p>5 license to practice dentistry issued by the</p> <p>6 New Mexico Dental Board of Health Care?</p> <p>7 A. Yes.</p> <p>8 Q. When was it issued?</p> <p>9 A. I don't know.</p> <p>10 Q. Does June of 1996 sound correct?</p> <p>11 A. Could be.</p> <p>12 Q. But 1996, in all likelihood?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 Do you recall what your New Mexico license</p> <p>16 is?</p> <p>17 MR. BOYLE: Object, vague. What the</p> <p>18 license is?</p> <p>19 Q. I'm sorry, what your license number is. I</p> <p>20 apologize.</p> <p>21 MR. BOYLE: If you know.</p> <p>22 A. It's DD1867, I think.</p> <p>23 Q. And what was -- this is a long time ago,</p> <p>24 but looking back to 1996, do you recall what the</p> <p>25 process was to obtain your license in New Mexico?</p>
<p style="text-align: right;">19</p> <p>1 A. Fifth. Sorry, I talked over you.</p> <p>2 Q. That's okay.</p> <p>3 Was it an entity that handled billing for</p> <p>4 your office?</p> <p>5 A. Fifth.</p> <p>6 Q. Do you recall who in your practice billed</p> <p>7 federal health care programs?</p> <p>8 A. Federal health care program?</p> <p>9 Q. For instance, Medicare.</p> <p>10 A. There's nothing --</p> <p>11 MR. BOYLE: Fifth.</p> <p>12 A. Fifth.</p> <p>13 Q. Are you aware of what a national provider</p> <p>14 identifier number is?</p> <p>15 A. National identifier provider --</p> <p>16 Q. NPI.</p> <p>17 A. Yeah.</p> <p>18 Q. Just explain your general understanding of</p> <p>19 that.</p> <p>20 A. I'll take the Fifth on it.</p> <p>21 Q. Was your NPI number 1003905043?</p> <p>22 A. I don't know.</p> <p>23 Q. Was it 1154767259?</p> <p>24 A. I don't know.</p> <p>25 Q. Okay, now I'd like to talk about your</p>	<p style="text-align: right;">21</p> <p>1 A. No.</p> <p>2 Q. Does the license have an expiration date?</p> <p>3 MR. BOYLE: Fifth.</p> <p>4 A. Fifth.</p> <p>5 Q. Do you have to apply to renew a dental</p> <p>6 license every few years or...?</p> <p>7 A. Fifth.</p> <p>8 Q. Why did you obtain a dental license in</p> <p>9 New Mexico?</p> <p>10 A. Why? Fifth.</p> <p>11 Q. Is it because it was required by law to</p> <p>12 practice dentistry in New Mexico?</p> <p>13 A. Fifth.</p> <p>14 Q. It's unlawful to practice dentistry without</p> <p>15 a license?</p> <p>16 MR. BOYLE: Objection. Calls for a legal</p> <p>17 conclusion.</p> <p>18 A. Fifth.</p> <p>19 Q. Just from your understanding, not -- not a</p> <p>20 legal --</p> <p>21 A. No, just Fifth.</p> <p>22 Q. -- understanding.</p> <p>23 Understood.</p> <p>24 (Exhibit 2 marked.)</p> <p>25 Q. (By Mr. Minegar) Okay, I'm going to show</p>

<p style="text-align: right;">22</p> <p>1 you what we'll mark as Exhibit 2, U.S.A. Exhibit 2. 2 (A discussion was held off the record.) 3 Q. (By Mr. Minegar) So this is U.S.A. 4 Exhibit 2. And it is Bates numbered USA00001. Have 5 you seen this document before? 6 A. I don't have my glasses on, but, yeah, I've 7 seen -- this is -- no, I haven't. I mean, it's a 8 Xerox copy of something. 9 Q. Fair enough. Fair enough. 10 Is this a Xerox copy of your New Mexico 11 dental license? 12 A. One of them, yes. 13 Q. Okay. 14 A. It's the old one. 15 Q. And this is dated June 12th of 1996, the 16 date of issuance? 17 A. I assume so. I can't -- yeah, something 18 like that. 19 Q. It is very small. 20 A. Yeah. 21 Q. And just to confirm, your dental license 22 number was DD1867? 23 A. That's what it says. 24 Q. And you said -- you said it was an old one. 25 What did you mean by that?</p>	<p style="text-align: right;">24</p> <p>1 options that a dentist in New Mexico could apply for 2 other than general dentistry? And I'm not trying to 3 get into any Fifth Amendment stuff here. I'm just 4 looking for general information about -- 5 A. I don't know. 6 Q. Okay. 7 So you don't recall if you specifically 8 applied for a general dentistry license? 9 A. You're asking me if I recall -- 10 MR. BOYLE: I believe he took the Fifth on 11 that question. 12 MR. MINEGAR: Okay. 13 Q. (By Mr. Minegar) And do you also see at the 14 bottom, in all caps, it says, "This license must be 15 conspicuously posted in place of business"? 16 A. Yeah. 17 Q. Did you follow that directive? 18 MR. BOYLE: Fifth. 19 A. Fifth. 20 Q. Okay, and where in your office was this 21 displayed, if you did? 22 MR. BOYLE: Fifth. 23 A. Fifth. 24 Q. Okay. 25 So I would like to talk now about</p>
<p style="text-align: right;">23</p> <p>1 A. It's an old license. 2 Q. Meaning it's expired or -- 3 A. Yeah. 4 Q. Okay. 5 Did you apply for a new one after -- 6 because I do see that it says June 30, 2020. 7 A. Fifth. 8 Q. Okay. 9 And it also says that the -- let's see if I 10 can find it. Do you see where it says "General 11 Dentistry"? "Having complied with the provisions of 12 the New Mexico Board of Dental Health Care Act, is 13 hereby granted a license to practice as a dentist: 14 General Dentistry." You see where it says that? And 15 it's very small, so I apologize. 16 A. Okay. 17 Q. What does -- what does "general dentistry" 18 mean? 19 MR. BOYLE: Take the Fifth. 20 A. Fifth. 21 Q. Did you apply for a license to practice 22 general dentistry specifically? 23 MR. BOYLE: Fifth. 24 A. Fifth. 25 Q. Are there any -- are there any other</p>	<p style="text-align: right;">25</p> <p>1 prescriptions and registration. As part of your 2 general dentistry practice, did you ever prescribe 3 patients medications? 4 MR. BOYLE: Fifth. 5 A. Fifth. 6 Q. What kind of medications did you prescribe? 7 A. Fifth. 8 Q. Do you know what a controlled substance is? 9 A. Yes. 10 Q. What is a controlled substance? 11 A. It's something that's controlled by the 12 government. It's medications that are controlled by 13 the government. 14 Q. And are you familiar with the schedules 15 behind a controlled substance? 16 MR. BOYLE: Fifth. 17 A. Fifth. 18 Q. As part of your general dentistry practice, 19 did you ever prescribe your patients controlled 20 substances? 21 MR. BOYLE: Fifth. 22 A. Fifth. 23 Q. Did your New Mexico dental license allow 24 you to prescribe controlled substances to patients? 25 MR. BOYLE: Fifth.</p>

<p style="text-align: right;">26</p> <p>1 A. Fifth.</p> <p>2 Q. Just as a general matter, you said</p> <p>3 controlled substances are regulated by the</p> <p>4 government. Do you know why? Just based on your</p> <p>5 general understanding.</p> <p>6 MR. BOYLE: I'd take Fifth on that one.</p> <p>7 A. Fifth.</p> <p>8 Q. Do you agree that controlled substances are</p> <p>9 potentially more dangerous than other types of</p> <p>10 medications?</p> <p>11 MR. BOYLE: Fifth.</p> <p>12 A. Fifth.</p> <p>13 Q. Are they more addictive, potentially?</p> <p>14 MR. BOYLE: Fifth.</p> <p>15 A. Fifth.</p> <p>16 Q. Is there a greater risk for abuse of</p> <p>17 controlled substances?</p> <p>18 MR. BOYLE: Fifth.</p> <p>19 A. Fifth.</p> <p>20 Q. Or overdose risks?</p> <p>21 MR. BOYLE: Fifth.</p> <p>22 A. Fifth.</p> <p>23 Q. Is it important for the government to</p> <p>24 regulate substances that are potentially more</p> <p>25 dangerous?</p>	<p style="text-align: right;">28</p> <p>1 Pharmacy Board to prescribe controlled substances to</p> <p>2 patients?</p> <p>3 MR. BOYLE: Fifth.</p> <p>4 A. Fifth.</p> <p>5 Q. Okay.</p> <p>6 (Exhibit 3 marked.)</p> <p>7 Q. (By Mr. Minegar) I'm going to show you</p> <p>8 another document. And we will mark this one U.S.A.</p> <p>9 Exhibit 3. And please take a moment to review it.</p> <p>10 Again, small font, so I apologize. Take as much time</p> <p>11 as you need.</p> <p>12 A. I can't read it because it's really small,</p> <p>13 without my glasses.</p> <p>14 Q. Did you understand that you would</p> <p>15 potentially be called upon to read documents today?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 Is there a reason why you left your glasses</p> <p>19 at home?</p> <p>20 A. I didn't leave them at home, but there's a</p> <p>21 reason for it. Didn't even think about it.</p> <p>22 Q. Where are they?</p> <p>23 A. They're at my office.</p> <p>24 Q. So are you able to read this document?</p> <p>25 A. No, I cannot. It's too small. I can read</p>
<p style="text-align: right;">27</p> <p>1 A. Fifth.</p> <p>2 Q. Is it important to ensure that only</p> <p>3 licensed practitioners are prescribing controlled</p> <p>4 substances to patients?</p> <p>5 A. Fifth.</p> <p>6 Q. Could there potentially be harmful results</p> <p>7 otherwise?</p> <p>8 A. Fifth.</p> <p>9 Q. So is the authority to prescribe controlled</p> <p>10 substances to patients a serious responsibility?</p> <p>11 A. Fifth.</p> <p>12 Q. In your understanding, what do you need,</p> <p>13 legally speaking, to prescribe controlled substances</p> <p>14 in your New Mexico dental practice?</p> <p>15 MR. BOYLE: I'll object that it calls for a</p> <p>16 legal conclusion.</p> <p>17 A. Fifth.</p> <p>18 Q. Without asking for any type of legal</p> <p>19 conclusion, just based on your understanding of sort</p> <p>20 of the licensing and registration process, what --</p> <p>21 what do you recall needing to get the authority to</p> <p>22 prescribe controlled substances to your patients?</p> <p>23 MR. BOYLE: Fifth.</p> <p>24 A. Fifth.</p> <p>25 Q. Did you register with the New Mexico</p>	<p style="text-align: right;">29</p> <p>1 some of the words, like the top, "New Mexico</p> <p>2 Regulation and Licensing Department" and the "Board</p> <p>3 of Pharmacy," but all the other stuff is very blurry.</p> <p>4 Q. So have you seen this document before?</p> <p>5 A. I don't recall that document, but, yeah,</p> <p>6 it's probably -- it's an old document.</p> <p>7 Q. Do you see, at the top -- it's in bigger</p> <p>8 font -- where it says "Practitioners Controlled</p> <p>9 Substance Registration Renewal Application"?</p> <p>10 A. I could barely read it. It's kind of</p> <p>11 blurry on that.</p> <p>12 Q. Okay, and it was submitted to the</p> <p>13 New Mexico Regulation and Licensing Department of the</p> <p>14 Board of Pharmacy?</p> <p>15 A. Okay.</p> <p>16 Q. Is that a yes?</p> <p>17 A. I don't -- what are you asking me? Was</p> <p>18 that a question?</p> <p>19 Q. Yes. Do you see at the top where it says</p> <p>20 "New Mexico" -- I think you've already answered the</p> <p>21 question.</p> <p>22 Just returning to your glasses, you -- you</p> <p>23 said you left them behind in your office, and that</p> <p>24 there was -- what was -- what was the reason why you</p> <p>25 left them behind?</p>

<p style="text-align: right;">30</p> <p>1 A. I don't have a reason.</p> <p>2 Q. Did you forget?</p> <p>3 A. I didn't think about it.</p> <p>4 Q. Do you usually bring your reading glasses</p> <p>5 with you to court proceedings?</p> <p>6 A. No.</p> <p>7 Q. No? Why is that?</p> <p>8 A. There's no court proceedings.</p> <p>9 Q. There's no court proceedings?</p> <p>10 A. (Witness nods head.)</p> <p>11 Q. A deposition is not part of a court</p> <p>12 proceeding?</p> <p>13 A. (No audible response.)</p> <p>14 Q. To your understanding?</p> <p>15 A. I didn't know -- I was going to take the</p> <p>16 Fifth on everything, so...</p> <p>17 Q. Okay.</p> <p>18 Do you see, at the bottom of U.S.A.</p> <p>19 Exhibit 2, there are three lines for signatures? If</p> <p>20 you hold it closer to your face, will that help?</p> <p>21 A. No, that's not -- that's not Exhibit 2.</p> <p>22 Q. Exhibit 3, I'm sorry.</p> <p>23 MR. BOYLE: Exhibit 3 is what he was trying</p> <p>24 to get to.</p> <p>25 THE WITNESS: Okay.</p>	<p style="text-align: right;">32</p> <p>1 Exhibit 4, and it's Bates numbered USA000037. It's a</p> <p>2 DEA Controlled Substance Registration Certificate.</p> <p>3 Have you seen this document before?</p> <p>4 A. It's hard to read. It's even smaller than</p> <p>5 the other one. But, no, I haven't seen that one.</p> <p>6 Q. You've never seen this document before?</p> <p>7 A. No.</p> <p>8 Q. Are you familiar with what a DEA Controlled</p> <p>9 Substance Registration Certificate is in your</p> <p>10 practice as a dentist?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. It's just what you said, it's a DEA license</p> <p>14 certificate.</p> <p>15 Q. So you have to apply with the DEA in order</p> <p>16 to get authority to prescribe controlled substances</p> <p>17 to your patients?</p> <p>18 A. Fifth.</p> <p>19 Q. Okay.</p> <p>20 Do you see, there are two instances, two</p> <p>21 boxes that say "Gardner, William, General; William C.</p> <p>22 Gardner, D.D.S., PA." Just to confirm, that's --</p> <p>23 that's your practice, correct, on the document?</p> <p>24 MR. BOYLE: I'll object to the form. You</p> <p>25 can answer it if you can.</p>
<p style="text-align: right;">31</p> <p>1 A. There's three signatures, yeah.</p> <p>2 Q. Is that your signature?</p> <p>3 A. It's hard to tell. I can't -- it probably</p> <p>4 is, but I can't really --</p> <p>5 Q. It probably is?</p> <p>6 A. Yeah.</p> <p>7 Q. Does it look like it's your signature?</p> <p>8 A. From what I can see, yes, it does.</p> <p>9 Q. Okay.</p> <p>10 So did you submit this application for</p> <p>11 renewal of your New Mexico Controlled Substance</p> <p>12 Registration?</p> <p>13 MR. BOYLE: Fifth.</p> <p>14 A. Fifth.</p> <p>15 Q. Okay.</p> <p>16 Did you also have to register with the Drug</p> <p>17 Enforcement -- Federal Drug Enforcement agency in</p> <p>18 order to prescribe controlled substances to patients?</p> <p>19 MR. BOYLE: Fifth.</p> <p>20 A. Fifth.</p> <p>21 Q. Do you recall ever doing so?</p> <p>22 A. Fifth.</p> <p>23 (Exhibit 4 marked.)</p> <p>24 Q. (By Mr. Minegar) Okay, I'm going to show</p> <p>25 you another document. And we'll mark this one U.S.A.</p>	<p style="text-align: right;">33</p> <p>1 Q. It's a bad question. My question is --</p> <p>2 MR. BOYLE: If you're asking him what it</p> <p>3 says on the form, do we really need to go through</p> <p>4 that?</p> <p>5 MR. MINEGAR: No, sure.</p> <p>6 Q. (By Mr. Minegar) Is it -- is it fair to say</p> <p>7 this is your DEA registration certificate?</p> <p>8 A. It's -- it's an old one.</p> <p>9 Q. But it is your DEA Controlled Substance</p> <p>10 Registration?</p> <p>11 A. It could be. It's hard to say. I can't</p> <p>12 really read everything on there. I'm trying to kind</p> <p>13 of (inaudible) my eyes through it, but... It's --</p> <p>14 it's -- it's a Xerox copy of something you guys put</p> <p>15 in front of me. It's not the original. It's hard to</p> <p>16 say because they've changed their format many times,</p> <p>17 and it's all online based now. So that's -- as I</p> <p>18 understand, it could be, but it's hard to say,</p> <p>19 because this is a Xerox copy.</p> <p>20 Q. From your practice, is this what Controlled</p> <p>21 Substance Registration Certificates look like,</p> <p>22 recognizing that this is a Xerox copy of it?</p> <p>23 MR. BOYLE: If you can answer it, you can</p> <p>24 answer it.</p> <p>25 Q. I'm just trying to --</p>

<p style="text-align: right;">34</p> <p>1 A. No, I don't recall that, because it doesn't 2 look like it, really. It doesn't -- there's -- what 3 I remember is a totally different look to them. 4 They're bigger, different color. There's something 5 different about them. So it's hard to say that's, 6 you know, correct. I mean, you're saying it's 7 correct, so that's what you said, but that's not what 8 I said. 9 Q. Have you seen the document before -- 10 A. No. 11 Q. -- is my question? Okay. 12 Is your DEA registration number, to your 13 recollection, BG9826427? 14 MR. BOYLE: If you know, you can answer. 15 A. Yes. 16 Q. Okay, thank you. 17 And why did you register with the DEA? 18 MR. BOYLE: Fifth. 19 A. Fifth. 20 Q. Is it because you understood that you 21 couldn't legally prescribe controlled substances to 22 your patients without DEA approval? 23 MR. BOYLE: Fifth. 24 A. Fifth. 25 Q. Okay, I'd like to talk about the process</p>	<p style="text-align: right;">36</p> <p>1 New Mexico license, and New Mexico registration, DEA 2 registrations, were you the final one in your 3 practice -- or did you have final authority in your 4 practice in writing prescriptions? 5 MR. BOYLE: Fifth. 6 A. Fifth. 7 Q. Could members of your staff write 8 prescriptions for patients? 9 MR. BOYLE: Fifth. 10 A. Fifth. 11 Q. And when I say "members of your staff," 12 could members of your staff, without a license or 13 registration, prescribe medications to patients? 14 MR. BOYLE: Fifth. 15 A. Fifth. 16 Q. Were you the final decision maker when it 17 came to prescribing medications to your patients? 18 MR. BOYLE: Fifth. 19 A. Fifth. 20 Q. When you wrote prescriptions for 21 medications for your patients, did you do so 22 intending that your patients would get those 23 prescriptions filled? 24 MR. BOYLE: Fifth. 25 A. Fifth.</p>
<p style="text-align: right;">35</p> <p>1 that you used in your business to prescribe 2 medications to your patients. So, for example, 3 patient presents to you with an issue that you think 4 requires medication. Is there a specific -- and you 5 make the determination that a prescription is 6 required. Is there a specific form that you would 7 use to write that patient a prescription? 8 MR. BOYLE: Fifth. 9 A. Fifth. 10 Q. Would that form, you know, have a 11 letterhead with your business name on it? 12 A. Fifth. 13 Q. And in order to prescribe any types of 14 medications to your patients, did you physically sign 15 a form indicating which prescriptions were being 16 prescribed? 17 MR. BOYLE: Fifth. 18 A. Fifth. 19 Q. And focusing on the 2020 to '21 time frame, 20 did anyone working with you in your practice assist 21 you in the process of writing prescriptions for your 22 patients? 23 MR. BOYLE: Fifth. 24 A. Fifth. 25 Q. As the practice owner with a D.D.S., a</p>	<p style="text-align: right;">37</p> <p>1 Q. When you wrote prescriptions, did you do so 2 knowing that your patient would probably go to a 3 pharmacy to get the prescription filled? 4 MR. BOYLE: Fifth. 5 A. Fifth. 6 Q. And let me just ask generally, why do you 7 prescribe medications to your patients -- 8 A. Fifth. 9 MR. BOYLE: Fifth. 10 Q. Just generally -- 11 A. Fifth. 12 Q. What is the status of your New Mexico 13 dental license today? 14 MR. BOYLE: Fifth. 15 A. Fifth. 16 Q. Has the New Mexico Board of Dental Health 17 Care ever taken disciplinary action against you? 18 MR. BOYLE: Fifth. 19 A. Fifth. 20 Q. Did the New Mexico Board of Dental Health 21 Care ever revoke your license to practice dentistry 22 in New Mexico? 23 MR. BOYLE: Fifth. 24 A. Fifth. 25 Q. Was your license revoked effective</p>

<p style="text-align: right;">38</p> <p>1 July 17th of 2020?</p> <p>2 A. Fifth.</p> <p>3 Q. Is your license still revoked today?</p> <p>4 A. Fifth.</p> <p>5 Q. Did you ever challenge the July 2020</p> <p>6 revocation of your New Mexico dental license in court</p> <p>7 in New Mexico?</p> <p>8 MR. BOYLE: Fifth.</p> <p>9 A. Fifth.</p> <p>10 Q. Did you ever win any challenge to the</p> <p>11 revocation, the July 2020 revocation of your dental</p> <p>12 license in court?</p> <p>13 A. Fifth.</p> <p>14 Q. No court has ever held that the board, in</p> <p>15 July of 2020, incorrectly revoked your license?</p> <p>16 A. Fifth.</p> <p>17 I'm going to take a break.</p> <p>18 Q. Sure. How much time do you need?</p> <p>19 A. Ten minutes.</p> <p>20 Q. Sure, that works.</p> <p>21 (Recess taken 9:58 a.m. to 10:11 a.m.)</p> <p>22 Q. (By Mr. Minegar) So before we get started,</p> <p>23 I just wanted to talk about this medication issue.</p> <p>24 In -- I don't want, in two weeks, for defendant to</p> <p>25 come back and say that these medications that you</p>	<p style="text-align: right;">40</p> <p>1 painkillers and muscle relaxers and so forth, I know</p> <p>2 they can have impacts on the ability to tell the</p> <p>3 truth, but I have no idea whether it's having that</p> <p>4 impact or not. What I'm hearing him say, under oath,</p> <p>5 is that he can't be sure about that either, but it's</p> <p>6 your deposition.</p> <p>7 Q. (By Mr. Minegar) Mr. Gardner, you knew that</p> <p>8 your deposition was today?</p> <p>9 A. Yes. Well, I knew about it two days ago.</p> <p>10 Q. You knew it was today?</p> <p>11 A. Yes.</p> <p>12 Q. Are these over-the-counter medications?</p> <p>13 A. No.</p> <p>14 Q. Are they prescription medications?</p> <p>15 A. They are.</p> <p>16 Q. And you said you don't recall what kind of</p> <p>17 medications they are?</p> <p>18 A. I told you they're muscle -- muscle</p> <p>19 relaxers and pain medication.</p> <p>20 Q. Were you required to take them this</p> <p>21 morning?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have a doctor's note or anything, or</p> <p>24 something that --</p> <p>25 A. I do.</p>
<p style="text-align: right;">39</p> <p>1 took this morning affected your ability to testify</p> <p>2 truthfully and that this transcript and this</p> <p>3 deposition is worthless because of that. So have</p> <p>4 those medications affected your ability to testify</p> <p>5 truthfully to the questions that I've asked so far?</p> <p>6 A. I don't know. I don't know if they've</p> <p>7 affected me.</p> <p>8 Q. Okay.</p> <p>9 A. I mean, they're -- they're -- I took them.</p> <p>10 Q. Because if --</p> <p>11 A. What do you want me to say?</p> <p>12 MR. MINEGAR: And, Gary, if -- I think, if</p> <p>13 the plan is to come back and claim that this</p> <p>14 deposition is worthless because of his medications,</p> <p>15 then I'd like to adjourn and come back at another</p> <p>16 date where you haven't taken those medications,</p> <p>17 because I think it's a waste of everyone's time.</p> <p>18 So unless you're comfortable proceeding</p> <p>19 today with the understanding that you are able to</p> <p>20 testify truthfully in response to the questions I'm</p> <p>21 asking, then I would like to put it to you.</p> <p>22 MR. BOYLE: Well, we're certainly not in a</p> <p>23 position to waive anything. I think he's said as</p> <p>24 much as he knows about his medication and what effect</p> <p>25 it has on him. And from my limited knowledge of</p>	<p style="text-align: right;">41</p> <p>1 Q. -- you'd be comfortable sharing with us?</p> <p>2 A. I have a prescription. I don't have</p> <p>3 anything to share with you.</p> <p>4 Q. You're required to take it every day?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 A. Every four to six hours.</p> <p>8 MR. MINEGAR: I'm not comfortable</p> <p>9 proceeding unless --</p> <p>10 MR. BOYLE: I'll put -- I'll put this on</p> <p>11 the record. We won't object to you asking the Court</p> <p>12 to extend the discovery date so that you can attempt</p> <p>13 to do it -- an adjournment and start over again. I</p> <p>14 won't object to that. But I have no idea what my</p> <p>15 position might be with respect to anything else.</p> <p>16 Q. (By Mr. Minegar) Because the only way that</p> <p>17 I think it's not a waste of everyone's time today is</p> <p>18 if you're willing to continue, with the understanding</p> <p>19 that you are able to testify truthfully and that you</p> <p>20 understand my questions notwithstanding these</p> <p>21 medications.</p> <p>22 A. Waive my rights is basically what you're</p> <p>23 saying.</p> <p>24 MR. BOYLE: Well, no, I think what he's</p> <p>25 saying is will we agree to come back on a continued</p>

<p style="text-align: right;">42</p> <p>1 deposition at a time when you're not taking those</p> <p>2 prescriptions. Is that fair? Is that what you're</p> <p>3 trying to say?</p> <p>4 Q. (By Mr. Minegar) What's -- how long are you</p> <p>5 on these prescriptions?</p> <p>6 A. I don't know. Probably perpetual. It's</p> <p>7 going to be until my back gets better.</p> <p>8 MR. MINEGAR: Well, I mean, you have to see</p> <p>9 the position that I'm in.</p> <p>10 MR. BOYLE: I understand your position.</p> <p>11 MR. MINEGAR: A witness claiming I can't</p> <p>12 testify -- I can't know if I'm testifying truthfully</p> <p>13 because of medications that I'm potentially on</p> <p>14 perpetually. So it's an issue that we might have to</p> <p>15 take up with the Court. But unless you're willing to</p> <p>16 continue today with the understanding that you are</p> <p>17 able to testify truthfully to my questions,</p> <p>18 notwithstanding these medications, then it feels like</p> <p>19 a waste of everyone's time to proceed.</p> <p>20 MR. BOYLE: We're not going to make that --</p> <p>21 that agreement. He's testified that he doesn't know</p> <p>22 what the effect is. We're happy to go forward and</p> <p>23 complete the deposition, but the fact is that he</p> <p>24 doesn't know what that effect is.</p> <p>25 Q. (By Mr. Minegar) Are you going to come back</p>	<p style="text-align: right;">44</p> <p>1 MS. CHAPPELL: I know, I know. Anyway, so</p> <p>2 we'll be back.</p> <p>3 (Recess taken 10:16 a.m. to 10:25 a.m.)</p> <p>4 Q. (By Mr. Minegar) Okay, I think I've asked</p> <p>5 you this question before, but I just want absolute</p> <p>6 clarity. Do you know the name of the medication that</p> <p>7 you took this morning?</p> <p>8 A. I do not know the name of it.</p> <p>9 Q. Do you know sort of the generic kind of</p> <p>10 medication that it is? You've said muscle relaxers,</p> <p>11 but just a little more specificity.</p> <p>12 A. No, I don't know the name -- I'm trying to</p> <p>13 think of it, the name of it -- because, to me, it's</p> <p>14 just muscle relaxer. They change their names, change</p> <p>15 companies all the time, and what they say is really</p> <p>16 not what it is. So I can't really recall what the</p> <p>17 name was.</p> <p>18 Q. What's the dosage, if you recall?</p> <p>19 A. High dosage. I don't know. Highest dosage</p> <p>20 you can get on mine.</p> <p>21 Q. Is it pills?</p> <p>22 A. Pills.</p> <p>23 Q. How many pills did you take?</p> <p>24 A. Two.</p> <p>25 Q. And you said you're on them perpetually?</p>
<p style="text-align: right;">43</p> <p>1 in two weeks and say, I didn't understand these</p> <p>2 questions because of my medication?</p> <p>3 MR. BOYLE: Well, we're not going to</p> <p>4 predict the future under any circumstances, but --</p> <p>5 you know, you heard the facts. He's on -- about the</p> <p>6 kinds of medications he's on, and the fact that he</p> <p>7 doesn't know, with any certainty, the effect. It's</p> <p>8 your call on whether you want to go on or not.</p> <p>9 MR. MINEGAR: Well, let's take another</p> <p>10 five-minute break --</p> <p>11 MR. BOYLE: Okay.</p> <p>12 MR. MINEGAR: -- and come back on the</p> <p>13 record, and we'll decide --</p> <p>14 MR. BOYLE: Okay.</p> <p>15 MR. MINEGAR: -- how we're going to</p> <p>16 proceed.</p> <p>17 MR. BOYLE: Okay. We'll just stay in here,</p> <p>18 then. Or you guys need the room?</p> <p>19 MR. MINEGAR: Yes.</p> <p>20 MR. BOYLE: Okay, okay. Then let us go</p> <p>21 outside.</p> <p>22 MS. CHAPPELL: Well, it's probably easier,</p> <p>23 actually, if you stay in here and we adjourn.</p> <p>24 MR. BOYLE: I was just trying to make it</p> <p>25 the easiest way I can.</p>	<p style="text-align: right;">45</p> <p>1 A. Until my back gets better.</p> <p>2 Q. So we talked about adjourning the</p> <p>3 deposition until you're not on these medications</p> <p>4 anymore. Are you suggesting that you're always going</p> <p>5 to be on these medications and will never be</p> <p>6 available to testify at a deposition?</p> <p>7 A. I didn't say that.</p> <p>8 THE WITNESS: Did I say that?</p> <p>9 MR. BOYLE: No.</p> <p>10 Q. (By Mr. Minegar) I'm asking if that's</p> <p>11 your -- if that's what you're saying?</p> <p>12 A. I said that I'm on them perpetually, which</p> <p>13 means there's a possibility I'll probably be on them</p> <p>14 for a while until my back gets better. I didn't say</p> <p>15 forever.</p> <p>16 Q. You said --</p> <p>17 A. Until my back gets better, and until my</p> <p>18 doctor says that I'm okay to do it. How's that?</p> <p>19 Q. My apologies for interrupting, too.</p> <p>20 You used the word "perpetual," which is the</p> <p>21 reason why I'm asking.</p> <p>22 A. Yes.</p> <p>23 Q. So what about if this case goes to trial?</p> <p>24 A. I want to make sure we have a jury, too,</p> <p>25 but...</p>

<p style="text-align: right;">46</p> <p>1 I don't know what that means. What 2 happens -- 3 Q. Same question, is it -- well, is it going 4 to affect your ability to testify truthfully at the 5 trial if you're still on these medications? Will we 6 have to postpone the trial? 7 A. Well, I think we asked for a stay, but, 8 yeah, I would say so, if we have to set apart the 9 deposition. 10 Q. Okay. 11 And one other line of questioning just to, 12 again, be perfectly clear. Is there a reason that 13 you left your reading glasses behind? 14 MR. BOYLE: I think he did ask and answer 15 that. 16 But you can answer it again, if you can. 17 A. Yeah, there's no reason. I just -- I 18 really haven't been wearing those glasses until 19 recently, and so -- my eyesight has just been 20 declining for the last probably year or two, and I've 21 never really had to wear those. 22 Q. Are they prescription reading glasses? 23 A. No, they're just regular glasses. 24 Q. Do you know what the magnification is on 25 them?</p>	<p style="text-align: right;">48</p> <p>1 you want to, we'll make whatever argument we want to, 2 and we'll see what the Court does with it. 3 MR. MINEGAR: I sent this deposition notice 4 out on September 11th and was never informed that 5 there were any issues with medication, or reading 6 glasses, or a need to blow up exhibits. 7 MR. BOYLE: This isn't -- this isn't 8 reasonable printing. I can read it, but, you know -- 9 my eyes are obviously better than his. It's your 10 responsibility, if you want him to read something, to 11 give him a version that's readable. 12 MR. MINEGAR: Sure. Okay, yeah, so we'll 13 adjourn, and we'll be filing a motion. We'll let the 14 Court sort it out. 15 MR. BOYLE: We'll read and sign. Just 16 electronic. 17 MR. MINEGAR: One more thing. We will -- 18 you mentioned this topic before, but the discovery 19 cutoff is today. So in order to facilitate this 20 deposition, we would need additional time. 21 MR. BOYLE: I won't object to an extension 22 of the discovery deadline. 23 MR. MINEGAR: Okay. 24 MR. BOYLE: The rest of it we have 25 objections on.</p>
<p style="text-align: right;">47</p> <p>1 A. (Witness shakes head.) 2 Q. Okay. 3 MR. MINEGAR: So my position is that this 4 is a failure to appear for the deposition. He's 5 testifying that he took medication, he doesn't know 6 if it's affecting his ability to testify truthfully; 7 that despite the fact that he knew he was going to be 8 in a deposition today, he left his reading glasses at 9 home, whether it was purposeful or forgot. So our 10 position is that this is a failure to appear, and we 11 would -- we'll be filing a motion on it, but we would 12 like to adjourn the deposition until the Court can -- 13 can resolve this issue for us. 14 MR. BOYLE: To be clear, our position is 15 that we're here, we did appear. And with respect to 16 the medication, I think he's under doctor's 17 prescription to take that, so I think he was required 18 to take it this morning, deposition or not. 19 And with respect to the documents, you 20 certainly had it in your capacity to blow these up to 21 a point where somebody could read them without 22 reading glasses, so I don't think that's much of an 23 argument either. 24 MR. MINEGAR: Well, I was -- 25 MR. BOYLE: But you make whatever argument</p>	<p style="text-align: right;">49</p> <p>1 MR. MINEGAR: Understood. 2 (The deposition concluded at 10:30 a.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

50	<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF NEW MEXICO</p> <p>3</p> <p>4 UNITED STATES OF AMERICA,</p> <p>5</p> <p>6 Plaintiff,</p> <p>7 vs. No. 22-cv-00830-JB/JFR</p> <p>8 WILLIAM C. GARDNER, DDS,</p> <p>9 Defendant.</p> <p>10 CERTIFICATE OF COMPLETION OF DEPOSITION</p> <p>11 I, PEGGY JO GONZALES, New Mexico CCR #145, DO</p> <p>12 HEREBY CERTIFY that on October 13, 2023, the</p> <p>13 deposition of WILLIAM GARDNER was taken before me at</p> <p>14 the request of, and sealed original thereof retained</p> <p>15 by:</p> <p>16 Attorney for the Plaintiff</p> <p>17 MR. BENJAMIN G. MINEGAR</p> <p>18 Assistant U.S. Attorney</p> <p>19 District of New Mexico</p> <p>20 201 Third Street, Northwest, Suite 900</p> <p>21 Albuquerque, New Mexico 87102</p> <p>22</p> <p>23 I FURTHER CERTIFY that copies of this</p> <p>24 certificate have been mailed or delivered to all</p> <p>25 Counsel, and parties to the proceedings not</p> <p>represented by counsel, appearing at the taking of</p> <p>the deposition:</p> <p>I FURTHER CERTIFY that examination of this</p> <p>transcript and signature of the witness was requested</p> <p>by the witness and all parties present.</p> <p>On _____ a letter was mailed or delivered to</p> <p>MR. GARY W. BOYLE regarding obtaining signature of</p> <p>the witness.</p> <p>I FURTHER CERTIFY that the recoverable cost of</p> <p>the original and one copy of the deposition,</p>	52	<p>1 United States of America vs William C. Gardner, DDS</p> <p>2 WITNESS SIGNATURE/CORRECTION PAGE</p> <p>3 If there are any typographical errors to your</p> <p>deposition, indicate them below:</p> <p>4</p> <p>5 PAGE LINE</p> <p>6 _____ Change to _____</p> <p>7 _____ Change to _____</p> <p>8 _____ Change to _____</p> <p>9 _____ Change to _____</p> <p>10 Any other changes to your deposition are to be</p> <p>listed below with a statement as to the reason</p> <p>for such change.</p> <p>11 PAGE LINE CORRECTION REASON FOR CHANGE</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 I, WILLIAM GARDNER, do hereby certify that I</p> <p>have read the foregoing pages of my testimony as</p> <p>transcribed and that the same is a true and correct</p> <p>transcript of the testimony given by me in this</p> <p>deposition on October 13, 2023, except for the</p> <p>changes made.</p> <p>22 _____</p> <p>23 _____</p> <p>24 Date Signed WILLIAM GARDNER</p> <p>25 (8692N-PJ) Proofread by: PD</p>
51	<p>1 \$ _____</p> <p>2 I FURTHER CERTIFY that I did administer the oath</p> <p>3 to the witness herein prior to the taking of this</p> <p>4 deposition; that I did thereafter report in</p> <p>5 stenographic shorthand the questions and answers set</p> <p>6 forth herein, and the foregoing is a true and correct</p> <p>7 transcript of the proceeding had upon the taking of</p> <p>8 this deposition to the best of my ability.</p> <p>9 I FURTHER CERTIFY that I am neither employed by</p> <p>10 nor related to nor contracted with (unless excepted</p> <p>11 by the rules) any of the parties or attorneys in this</p> <p>12 case, and that I have no interest whatsoever in the</p> <p>13 final disposition of this case in any court.</p> <p>14 _____</p> <p>15 Peggy Jo Gonzales, RMR, CCR #145</p> <p>16 Bean & Associates, Inc.</p> <p>17 Professional Court Reporting Service</p> <p>18 NM Certified Court Reporter #145</p> <p>19 License Expires: 12/31/2023</p> <p>20</p> <p>21 (8692N-PJ)</p> <p>22 Date Taken: October 13, 2023</p> <p>23 Proofread by: PD</p> <p>24</p> <p>25</p>	<p>RECEIPT</p> <p>JOB NUMBER: (8692N-PJ) October 13, 2023</p> <p>WITNESS NAME: WILLIAM GARDNER</p> <p>CASE CAPTION: United States of America vs William C.</p> <p>Gardner, DDS</p> <p>*****</p> <p>ATTORNEY: MR. BENJAMIN G. MINEGAR</p> <p>DOCUMENT: Transcript / Exhibits / Disks / Other _____</p> <p>DATE DELIVERED: _____ DEL'D BY: _____</p> <p>REC'D BY: _____ TIME: _____</p> <p>*****</p> <p>ATTORNEY: MR. GARY W. BOYLE</p> <p>DOCUMENT: Transcript / Exhibits / Disks / Other _____</p> <p>DATE DELIVERED: _____ DEL'D BY: _____</p> <p>REC'D BY: _____ TIME: _____</p> <p>*****</p> <p>ATTORNEY:</p> <p>DOCUMENT: Transcript / Exhibits / Disks / Other _____</p> <p>DATE DELIVERED: _____ DEL'D BY: _____</p> <p>REC'D BY: _____ TIME: _____</p> <p>*****</p> <p>ATTORNEY:</p> <p>DOCUMENT: Transcript / Exhibits / Disks / Other _____</p> <p>DATE DELIVERED: _____ DEL'D BY: _____</p> <p>REC'D BY: _____ TIME: _____</p>	

DATE DELIVERED: _____

MR. GARY W. BOYLE
 15 Spirit Court
 Santa Fe, New Mexico 87506-1103
 gary.boyle.boylelawoffice@gmail.com
 RE: United States of America vs William C. Gardner,
 DDS
 DEPOSITION OF: WILLIAM GARDNER
 DATE TAKEN: October 13, 2023

Dear Mr. Boyle:

At the time of the above deposition/sworn statement, it was requested that the witness read and sign his/her transcript.

____ Enclosed is your copy of the transcript with the original signature page. Please ask the witness to read the transcript, make any corrections on the signature page, and return the original signature page to our Albuquerque office.

____ Enclosed is your copy of the transcript. Please read it, note any corrections on the signature page, and return the original signature page to our Albuquerque office. You may keep the transcript for your files.

____ The transcript is now ready to review. Please contact our Albuquerque office, 505-843-9494, to make arrangements to have the transcript read and signed. If you are outside the Albuquerque area, please call 800-669-9492.

____ The transcript is now ready for review. Please remit payment in the amount of \$ _____ to our Albuquerque office. As soon as payment is received, your transcript will be delivered. If you choose not to pay, please contact our Albuquerque office, 505-843-9494, to make arrangements for signature.

____ Trial in this matter is set for _____. If the transcript has not been read and signed before that date, the original will be filed without a signature.

____ Other: The transcript of this deposition is attached to the email. Please also find attached the signature-correction page for your convenience.

The New Mexico Rules of Civil Procedure provide the witness 30 days, in most instances, from the receipt of this letter to read and sign his/her transcript. If he/she has not read and signed the transcript in that time, we will file the original transcript without the signature page.

Sincerely,

BEAN & ASSOCIATES, INC.

JOB NO.: (8692N-PJ)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 22-cv-00830-JB/JFR

WILLIAM C. GARDNER, DDS,

Defendant.

CERTIFICATE OF COMPLETION OF DEPOSITION

I, PEGGY JO GONZALES, New Mexico CCR #145, DO
HEREBY CERTIFY that on October 13, 2023, the
deposition of WILLIAM GARDNER was taken before me at
the request of, and sealed original thereof retained
by:

Attorney for the Plaintiff
MR. BENJAMIN G. MINEGAR
Assistant U.S. Attorney
District of New Mexico
201 Third Street, Northwest, Suite 900
Albuquerque, New Mexico 87102

I FURTHER CERTIFY that copies of this
certificate have been mailed or delivered to all
Counsel, and parties to the proceedings not
represented by counsel, appearing at the taking of
the deposition:

I FURTHER CERTIFY that examination of this
transcript and signature of the witness was requested
by the witness and all parties present.

On Oct 18, 2023 a letter was mailed or delivered to
MR. GARY W. BOYLE regarding obtaining signature of
the witness.

I FURTHER CERTIFY that the recoverable cost of
the original and one copy of the deposition,
including exhibits, to MR. BENJAMIN G. MINEGAR is

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119 East Marcy, Suite 110
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1 \$ _____.

2 I FURTHER CERTIFY that I did administer the oath
3 to the witness herein prior to the taking of this
4 deposition; that I did thereafter report in
5 stenographic shorthand the questions and answers set
6 forth herein, and the foregoing is a true and correct
7 transcript of the proceeding had upon the taking of
8 this deposition to the best of my ability.

9 I FURTHER CERTIFY that I am neither employed by
10 nor related to nor contracted with (unless excepted
11 by the rules) any of the parties or attorneys in this
12 case, and that I have no interest whatsoever in the
13 final disposition of this case in any court.

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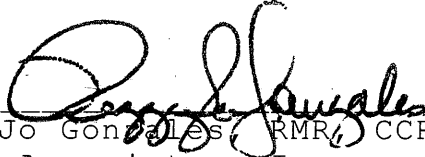
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25

(8692N-PJ)

Date Taken: October 13, 2023

Proofread by: PD


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